

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

CORTNEY DAWSON,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. <u>CIV-17-1043-D</u>
	)	(Formerly Oklahoma County
D&M CARRIERS, LLC d/b/a,	)	Case No. CJ-2017-5133)
FREYMILLER, INC., a	)	
domestic limited liability	)	
company,	)	
	)	
Defendant.	)	

**NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1331, 1441 and 1446, Defendant, D&M Carriers, LLC d/b/a Freymiller, Inc. (“Freymiller”), hereby removes this action from the District Court of Oklahoma County, Oklahoma, where it was filed as Cause No. CJ-2017-5133, styled *Cortney Dawson v. D&M Carriers, LLC d/b/a Freymiller, Inc.*, in the Judicial District Court of Oklahoma County, Oklahoma to the United States District Court for the Western District of Oklahoma. As the grounds for removal, Freymiller states as follows:

1. Plaintiff filed her Petition in this matter on September 11, 2017 in the state court of Oklahoma County, Oklahoma, which is located within the Western District of Oklahoma.
2. Freymiller was served with Summons on September 12, 2017. A copy of Plaintiff’s Petition is attached hereto as Exhibit “1,” and a copy of the Summons is attached hereto as Exhibit “2.”

3. This is a civil action over which this Court has original subject matter jurisdiction under the provisions of 28 U.S.C. § 1331. Pursuant to Plaintiff's Petition, Plaintiff's claims apparently arise out of alleged violations of federal law related to her former employment by Freymiller. While Plaintiff's state court petition does not expressly mention 42 U.S.C § 2000e *et. seq.* ("Title VII"), it is clear she asserts this claim under federal law. Plaintiff's petition does not specifically identify *any* specific law, whether federal or state in character. However, in alleging "unlawful treatment of her during her employment," as well as "complaints of sexual harassment" and discrimination based on "pregnancy," Plaintiff certainly hints at federal claims. But by seeking damages at a "statutory maximum of \$300,000" and punitive damages, Plaintiff makes absolutely clear the federal nature of her claims. See Petition ¶¶ 1-2, 13-14. Punitive damages are only available under Title VII and not under the Oklahoma Antidiscrimination Act ("OADA"). See 25 Okla. Stat. tit. 25 § 1350(G) (only allowing liquidated damages); MacDonald v. Corporate Integris Health, 321 P.3d 980 (Okla. 2014). Further, the \$300,000 limit to compensatory damages is only expressly identified via statute in reference to Title VII. See 42 U.S.C. § 1981a(b)(3)(D) (although it may be made applicable to the OADA as a defense pursuant to 25 O.S. § 1350(F) ("The defending party may alleged any defense that is available under Title VII..."). Therefore, Plaintiff has asserted a "federal question," and this Court has jurisdiction under 28 U.S.C. § 1331. This action may be removed to this Court pursuant to the provisions of 28 U.S.C. § 1441(a).

4. This Notice of Removal is timely because it is filed within thirty (30) days from the date Freymiller received a copy of the Petition. See 28 U.S.C. § 1446(b).

5. As required by 28 U.S.C. § 1446(d), written notice of the filing of this Notice of Removal is being filed this day with the Clerk of the District Court of Oklahoma County, Oklahoma.

6. In accordance with LCvR 81.2, Fed. R. Civ. P. 81 and 28 U.S.C. § 1446(a), copies of all process and pleadings previously served upon Freymiller, including a copy of the state court docket sheet, are attached hereto as Exhibits “1” through “4”.

7. There are no motions pending before the Oklahoma County District Court in this matter, nor are any hearings currently set.

WHEREFORE, D&M Carriers, LLC d/b/a Freymiller, Inc., respectfully removes this action to this Court pursuant to 28 U.S.C. § 1441.

Respectfully submitted,

s/Paul A. Ross

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**ATTORNEYS FOR DEFENDANT**

**CERTIFICATE OF SERVICE**

I hereby certify that on September 29, 2017, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following registrants, and mailed via U.S. mail, postage prepaid:

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**ATTORNEYS FOR PLAINTIFF**

*s/Paul A. Ross*  
Paul A. Ross